HIGH COURT OF UTTARANCHAL AT NAINITAL

Writ Petition No. 991 (M/S) of 2006

1- Ishrar S/o Jikriya
2- Sattar S/o Jikriya
3- Mohd. Ashlam S/o Jikriya
4- Ahatsam S/o Jikriya
5- Abdulla S/o Jikriya

All resident of Village Kotdwar, Alampur, Pargana Manglaur, Tehsil Roorkee, Distt. Haridwar.

Versus

1- State of Uttaranchal through the Collector, Haridwar
2- Deputy Director of Consolidation/Collector, Haridwar. Respondents

Dated: 2.8.2006

Hon'ble Rajesh Tandon, J.

By the present writ petition, the petitioner has prayed for setting aside the orders dated 29.6.2006, and 13.7.2006.

The grievance of the petitioner is that the order dated 29.6.2006 has been passed in absence of the petitioner, and the revision has been allowed in his absence. The petitioner has also filed restoration application on 30.6.2006, which has been rejected on 13.7.2006 considering the prayer of the petitioner, it is desirable in the interest of justice that in view of the judgment of Apex Court In ***N Balakrishnan Vs. M. Krishnamurthy, 1998 S.C.F.B. and Rent Cases Pages 427,*** It has been held that law of limitation is founded in public policy on *'the maxim of interest reipublicae*

up sit finis litium' i.e. fal the general welfare, it has been held as under:-

> *"The primary function of a Court is to adjudicate the dispute between the parties and to advance substantial justice. Time limit fixed for approaching the Court in different situations is not because on the expiry of such time a bad cause would transform into a good cause."*
>
> *"Rules of limitation are not meant to destroy the right of parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the damage caused by reason of legal injury. Law of limitation fixes a lifespan for such legal remedy for the redress of the legal injury so suffered. Time is precious and the wasted time would never revisit. During efflux of time newer cause would sprout up necessitating newer persons to seek legal remedy by approaching the Courts. So a life spen must be fixed for each remedy. Unending period for launching the remedy may lead to unending uncertainty and consequential anarchy. Law of limitation is thus founded on public policy. It is enshrined in the maxim interest reipublicae up sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the right of the parties. They are meant to see that parties do not resort to dilatory tactics but seek their remedy promptly. The idea is that every legal remedy must be kept alive for a legislatively fixed period of time".*

"It must be remembered that in every case of delay there can be some lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. If the explanation does not smack of mala fides or it is not put-forth as part of a dilatory strategy the Court must show utmost consideration to the suitor. But when there is reasonable ground to think that the delay was occasioned by the party deliberately to gain time then the Court should lean against acceptance of the explanation".

Both the orders dated 29.6.2006, and 13.7.2006 are set aside. Revision is directed to be decided within a period of four months from the date of filing the certified copy of the order.

Subject to above, writ petition is disposed of. No order as to costs.

(Rajesh Tandon, J.)

Dated: 2.8.2006
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